HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7025 OF 1998.

Vinay K. Panse,
R/o: Dive, Tal: Purandhar,
District: Pune. ..Petitioner.

Versus.

1. Sursingh Jyotyajirao Jadhavrao,
R/o: jadhavwadi, Tq: Purandhar,
Dist:Pune.

2. The Collector, Pune.

3. The Addl. Commissioner,
Pune Division, Pune.

4. The State of Maharashtra. ..Respondents.

Shri. R. S. Kate for the Petitioner.

Shri. V. S. Gokhale, AGP for the Respondent -State.

CORAM: S.B.MHASE &
D.G.KARNIK, JJ.

DATE : FEBRUARY 1, 2006.

ORAL JUDGMENT (Per D. G. Karnik,J.):

1. Heard learned counsel for the petitioner and the respondent Nos.2 to 4. None appears for respondent no.1 though served.

2. Petition relates to the land bearing Gat No. 2182 (part) of village Dive, Taluka - Purandar, District Pune. The land bearing Gat No.2182 originally belonged to the respondent No.1, as also

owned several other lands. The total area of all the lands held by the petitioner was more than prescribed limit under the Maharashtra Agricultural Lands Ceiling on Holdings Act, 1961. (Hereinafter referred to as "the Ceiling Act.") The respondent No.1 was declared as "surplus holder". Land bearing Gat No. 2182 was declared as surplus and possession thereof was taken from the respondent No.1. A portion of the land bearing gat No. 2182 was thereafter allotted to Smt. Sunita Janardhan Pawar and a portion was allotted to Shri. Suhas Panse. Possession of a portion admeasuring 9-acres 16-gunthas out of the land bearing Gat No. 2182 which was allotted to Shri. Suhas Panse was also handed over to him on July 3, 1973. Possession Panchnama was drawn and a map thereof is annexed as Exhibit-"B" to the petition. Thereafter mutation entries bearing Nos. 75 and 76 were also effected recording allotment of land bearing Gat No. 2182 to Smt. Sunita Pawar and Shri. Suhas Panse.

The mutation entries were effected on July 3, 1973.

3. The area of the land allotted to Suhas Panse out of Gat No. 2182 was 9-acres 14-gunthas. It was allotted on a new tenure, i.e. he was not permitted to transfer the said land without the prior permission of the Collector. On July 6, 1973, Suhas

Panse made an application to the Collector requesting for permission to transfer 50% of 9-acres 16-gunthas of land out of Gat No. 2182 allotted to him for the purpose of industrial use. By an order dated 17th November 1993 the Additional Collector, Pune granted the permission to Suhas Panse to transfer 50%, i.e.1-hectare 88-Rs of land out of 3-hectare 78-Rs of land from Gat No. 2182 (part) was allotted to him. The permission was given to transfer the said land to be used for the industrial purpose. In pursuance of the said permission, Suhas applied for division of the land so as to effect the transfer of 1-hectare 82-Rs of land which was permitted to be transferred. By order dated 20th January 1994 the Tahasildar, Purandar effected sub-division of the land. Thereafter by a registered sale deed dated 2nd December 1993, Suhas transferred 1-hectare 88-Rs. of land out of Gat No. 2181 to the petitioner. The petitioner thereafter applied for permission under section 45 of the Maharashtra Land Revenue Code for non agriculture use of the land. By an order dated April 20, 1994, the Additional Collector, Pune granted the permission for non agriculture use of the land.

4. It appears that thereafter the respondent no.1 raised an objection to the permission for non

agricultural use granted by the Additional Collector by filing an appeal under section 247 of the Maharashtra Land Revenue Code before the Additional Commissioner. By an order dated June 22, 1998 the appeal was allowed. That order is impugned in this petition. In the meanwhile, in view of the stay granted by the Additional Commissioner for non agricultural use of the land, the Additional Collector, issued a letter dated July 2, 1994 to the purchaser, i.e., the petitioner herein for commencing the non agricultural use. The said letter is also impugned in this petition.

5. We fail to see what locus the respondent No. 1 had in challenging the order of the Additional Collector granting permission for non agricultural use of the land to the petitioner, i.e. the purchaser. Maybe the land originally belonged to him, but prior to the year 1973 that land was declared as surplus and acquired under the Ceiling Act. The possesion of the land was taken from him in the year 1973 or earlier. The land was allotted to Suhas Panse on 3rd July 1975 and possession was also handed over to Suhas. Suhas Panse cultivated the land for nearly 20 years and thereafter made an application for transfer. That permission was granted and land was thereafter

transferred to the petitioner. Permission for transfer was granted so that the purchaser should be able to put the land for non agricultural use. The purchaser applied for permission for non-agricultural use of the land which was granted. When the permission was granted to the petitioner, the respondent no. 1 had no right, title and interest in the land. Possession was already taken from him in the year 1973 or earlier. For 20 years, he did nothing and only when the purchaser was granted permission for non agricultural use of the land, he filed an appeal before the Commissioner challenging the order granting permission for non agricultural use. He having no right, title and interest in the land has no locus to challenge the order granting permission for non agricultures use.

6. For these reasons, the petition deserves to be allowed. Impugned orders are set aside and the rule is made absolute in terms of prayer clauses (b) & (c).

7. In the facts and circumstances of the case parties shall bear and pay their own costs.

(D.G.KARNIK,J.) **(S.B.MHASE, J.)**